

To: CN=Jayne Carlin/OU=R10/O=USEPA/C=US@EPA[]
Cc: CN=Don Waye/OU=DC/O=USEPA/C=US@EPA;allison.castellan@noaa.gov;CN=David Croxton/OU=R10/O=USEPA/C=US@EPA;CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; allison.castellan@noaa.gov;CN=David Croxton/OU=R10/O=USEPA/C=US@EPA;CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=David Croxton/OU=R10/O=USEPA/C=US@EPA;CN=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Jennifer Wu/OU=R10/O=USEPA/C=US@EPA;CN=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Katie Flahive/OU=DC/O=USEPA/C=US@EPA;CN=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]; N=Kelly Gable/OU=R3/O=USEPA/C=US@EPA[]
From: CN=David Powers/OU=R10/O=USEPA/C=US
Sent: Wed 1/16/2013 7:38:38 PM
Subject: Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter
Waye.Don@epamail.epa.gov
 (202) 566-1170
 (202) 566-1331
waye.don@epa.gov
epa.gov/nps
allison.castellan@noaa.gov
 (206) 553-8512
 (206) 553-0165
carlin.jayne@epa.gov
<http://www.epa.gov/r10earth/tmdl.htm>
allison.castellan@noaa.gov
<http://coastalmanagement.noaa.gov>
 (embedded image)

Its a bit awkward to respond in a letter and at the same time say in that letter that we understand that NWEA does not expect responses to letters like the one we just responded to...and we will not be responding to future letters. In addition, NWEA is involved in other CWA litigation besides OR CZARA and may send us a letter in the future that EPA (or NOAA) feel we need to respond to.

We could say something like "EPA and NOAA will consider both past and future NWEA correspondence as part of the record when we propose and make the final decision on Oregon's Coastal NPS program."

David Powers
 Regional Manager for Forests and Rangelands
 USEPA Region 10, OOO
 805 SW Broadway, Suite 500
 Portland, OR 97205
 503-326-5874
powers.david@epa.gov

From: Jayne Carlin/R10/USEPA/US
To: Don Waye/DC/USEPA/US@EPA, David Powers/R10/USEPA/US@EPA, allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA
Date: 01/16/2013 09:30 AM
Subject: Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Hi All,

I agree with all of your reservations on whether responding to NWEA (even very generally) may not be the most effective use of our time since Nina's already told Dave and Allison that she doesn't expect responses to her letters. Her intent is to add to the record, not make more work for us responding to each letter. I plan to discuss this further with Dave Croxton, my boss, to see if there is any way we can persuade Dan to reconsider his decision.

Meanwhile, if Dan still wants to send the letter, is there any language we can use in order not to have to respond to future letters such as these? Something like....

In the future, we will not be responding to each letter as we understand you told Dave Powers, EPA and Allison Castellan, NOAA that you do not expect responses to your letters as your intent is to add to the record and provide information for EPA and NOAA when making the final decision on whether to approve Oregon's Coastal NPS program under CZARA.

Regards,

Jayne

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 carlin.jayne@epa.gov

<http://www.epa.gov/r10earth/tmdl.htm>

From: Don Waye/DC/USEPA/US
 To: David Powers/R10/USEPA/US@EPA, allison.castellan@noaa.gov, Jayne Carlin/R10/USEPA/US@EPA,
 Cc: David Croxton/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA
 Date: 01/16/2013 08:17 AM
 Subject: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

I support Allison's edits, too.

From: David Powers/R10/USEPA/US
 To: Jayne Carlin/R10/USEPA/US@EPA, David Croxton/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA, Don Waye/DC/USEPA/US@EPA, allison.castellan@noaa.gov
 Date: 01/16/2013 10:43 AM
 Subject: Fw: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

I think Allison's edits fix the remaining piece of the letter I had concerns with. The impetus for OR DEQ to propose the IR TMDL in the Mid-Coast basins was to address additional management measures for forestry (one of the three remaining areas of OR's CNPCP that still has outstanding conditions) not agricultural management measures. It is accurate that the IR TMDL is supposed to cover all pollution sources within the Mid-Coast basins, including agriculture. But the IR TMDL may not be the primary basis for our CNPCP final decision for many sectors, particularly for conditionally approved program areas. Hopefully, the IR TMDL will

strengthen our rationale for a final decision on the CNPCP in multiple program areas.

David Powers
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----- Forwarded by David Powers/R10/USEPA/US on 01/16/2013 07:12 AM -----

From: Allison Castellan - NOAA Federal <allison.castellan@noaa.gov>
To: Don Waye/DC/USEPA/US@EPA
Cc: Jayne Carlin/R10/USEPA/US@EPA, David Croxton/R10/USEPA/US@EPA, David Powers/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA, Katie Flahive/DC/USEPA/US@EPA
Date: 01/16/2013 06:43 AM
Subject: Re: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Jayne--

Some initial comments from me added to Don's edits. However, if this is going out under joint signature, I'll need additional time for my legal counsel and mngt to review.

I also echo Dave and Don's comments that responding to NWEA (even very generally) may not be the most effective use of our time since Nina's already told Dave and me that she doesn't expect responses to her letters since she is a prolific correspondent. Her intent is to add to the record, not make more work for us responding to each letter.

Allison

On Tue, Jan 15, 2013 at 5:45 PM, <Waye.Don@epamail.epa.gov> wrote:
Jayne,

I have reservations about responding to this letter, but as your OD has made this decision, my comments are attached. I don't want to invite quid pro quo responses because attempting to keep up with Nina's prodigious output will deter us from our many obligations. beyond this, I can't help but wonder if the video clip she sent us points to an enforcement issue.

Ex. 5 - Deliberative

Ex. 5 - Deliberative

I have copied our Ag person for CZARA (Katie Flahive) and am inviting her input on this draft response, as well.
(See attached file: NWEA Letter NOAA EPA Response Draft 1-15-13,dw.docx)

Don Waye
U.S. Environmental Protection Agency
Nonpoint Source Control Branch (OWOW/AWPD)

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Jayne Carlin---01/15/2013 05:10:49 PM---Hi All, Our new Office Director has directed us to develop a response to NWEA's Dec 14 letter (which

From: Jayne Carlin/R10/USEPA/US
To: Don Waye/DC/USEPA/US@EPA, allison.castellan@noaa.gov, David Croxton/R10/USEPA/US@EPA
Cc: David Powers/R10/USEPA/US@EPA, Jennifer Wu/R10/USEPA/US@EPA, Kelly Gable/R3/USEPA/US@EPA
Date: 01/15/2013 05:10 PM
Subject: Review by COB Thursday Jan 17: Draft Letter Replying to NWEA's Dec 14 Letter

Hi All,

Our new Office Director has directed us to develop a response to NWEA's Dec 14 letter (which is attached). Attached is the initial draft and I would welcome your feedback by COB Thursday.

[attachment "NWEA Letter NOAA EPA Response Draft 1-15-13.docx" deleted by Don Waye/DC/USEPA/US]
(See attached file: CZARA letter to Federal Agencies re Tillamook CAFO waste.pdf)
Thanks!

Jayne

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<http://www.epa.gov/r10earth/tmdl.htm>

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[attachment "NWEA Letter NOAA EPA Response Draft 1-15-13,dw_ac.docx" deleted by Don Waye/DC/USEPA/US]